IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8538 of 2002

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHANTARAM G CHAUDHARY

Versus

DISTRICT COLLECTOR AHMEDABAD

Appearance:

1. Special Civil Application No. 8538 of 2002

PETITIONER No.1 WORKMAN :: IN-PERSON for Self & for Petitioner No. 2.

MR AJ DESAI AGP for Respondent No. 1

RULE SERVED for Respondent No. 2

MR GM JOSHI for Respondent No. 3

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 27/09/2004

ORAL JUDGEMENT

The petitioners-workmen seek execution of the Recovery Certificates issued by the Competent Authority under the Payment of Wages Act, 1936 in Payment of Wages Applications Nos. 526 of 1996 and 94 of 1998.

The workmen were engaged by one M/s. Ramesh Textile. According to the workmen, they were employed by the said M/s. Ramesh Textile in the year 1980 and their service was wrongfully terminated in the year 1982. Feeling aggrieved, the workmen raised industrial dispute which was referred to the Labour Court, Ahmedabad and registered as Reference [LCA] No. 535 of 1983. By judgment and award dated 14th August, 1996, the claim of the workmen has been allowed by the Labour Court. The workmen have been ordered to be reinstated in service and to be paid backwages. As the award has not been implemented, the workmen have filed several recovery applications. Two of such recovery applications moved before the Competent Authority under the Payment of Wages Act being P.W Applications No.526 of 1996 and 94 of 1998 were against the said M/s. Ramesh Textile, Shri Shaileshbhai Bhaveshbhai Textile and M/s. Neeky Plastic. The respondent no.3 herein, Shri Shaileshbhai Haribhai Patel is one of the partners in the aforesaid M/s. Neeky Plastic.

Pursuant to the orders dated 22nd December, 1999 and 3rd March, 1999 made on the said P.W Applications No. 526 of 1996 and 94 of 1998, the recovery certificates in the sum of Rs.4,22,680=00 and Rs. 37,454=00 respectively have been issued on 4th July, 2000 and 16th October, 1999 respectively against the said M/s. Ramesh Textile and one Shaileshbhai Haribhai Patel [the respondent no. 2 and respondent no. 3 respectively].

By judgment and order dated 27th September, 2004 passed in Special Civil Application No. 10376 of 2003, it has been held that the respondent no.3 was not a party to the above referred Reference [LCA] No. 535 of 1983 and that the workmen [the present petitioners] had no claim against the respondent no.3.

As the respondent no.3 is not held personally liable to implement the aforesaid award passed by the Labour Court, the recovery sought against the respondent no.3 is not sustainable. Hence, the petition is partly allowed. The respondent no.1-District Collector, Ahmedabad is directed to execute the recovery

certificates dated 16th October, 1999 and 4th July, 2000 issued by the Competent Authority under the Payment of Wages Act against the employer-M/s. Ramesh Textile as expeditiously as possible. Compliance of this order shall be reported to the said authority. Rule is made absolute to the aforesaid extent. The parties shall bear their own cost.

{Miss R.M Doshit, J.}

Prakash*